

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Removing Global direct Contracts from
the Competitive Product List

Docket No. MC2016-7

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO REMOVE
GLOBAL DIRECT CONTRACTS FROM THE
COMPETITIVE PRODUCT LIST

(October 27, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2766.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request pursuant to 39 USC 3642 and 39 CFR 3020.30 *et seq.*, to remove Global Direct Contracts from the competitive product list in the Mail Classification Schedule (MCS).²

Included as Attachment A to the Request is a redacted copy of Governors' Decision No. 11-6 authorizing removal of Global Direct Contracts from the competitive product list. *Id.* at 1. An Application for Nonpublic Treatment of Governors' Decision No. 11-6 is included as Attachment B. Included in Attachment C is a Statement of Supporting Justification (Statement) addressing the criteria set forth in 39 USC 3642. Changes to the text of the Mail Classification Schedule are included in Attachment D.

¹ Order No. 2766, Notice and Order Concerning Request to Removal of Global Direct Contracts from the Competitive Product List, February 5, 2013.

² Request of United States Postal Service to Remove Global Direct Contracts from the Competitive Product List, October 16, 2015 (Request), at 1.

Global Direct consists of negotiated service agreements that provide large, U.S.-based commercial mailers with a means of sending marketing materials directly to their customers in a foreign country without establishing separate mailing operations in the country. Agreements included within the competitive Global Direct Contracts 1 product offer prices for entry of marketing materials with and transportation by the Postal Service to a foreign postal operator for direct entry into the foreign postal system.

In summary, the Postal Service maintains that its decision to remove Global Direct Contracts from the competitive product list reflects an absence of customer demand and therefore a need to align the Postal Service's offerings with current customer needs and preferences. Request at 1-2.

COMMENTS

The Public Representative has reviewed the Postal Service's Request and the accompanying attachments, including the Statement of Supporting Justification. The Public Representative has also evaluated the Postal Service's Request to remove Global Direct Contracts from the competitive product list for consistency with the applicable statutory and regulatory criteria in 39 USC 3642 and 39 CFR 3020.30 *et seq.*

Compliance with statutory and regulatory requirements. Pursuant to 39 USC 3642, the Commission must make a determination with respect to three criteria concerning the addition of products to or removal of products from the market dominant or competitive product lists, or the transfer of products between such lists. In this regard, the Commission must (1) not classify as competitive a product over which the Postal Service "exercises sufficient market power," (2) not transfer a product that is covered by the postal monopoly, and (3) give due regard to the availability and nature of private sector enterprises engaged in the delivery of the product, the views of users of the product, and the likely impact of the proposed action on small business concerns.

Commission rules require the Postal Service to verify that its Request does not classify as competitive a product over which the Postal Service "exercises sufficient market power," and provide information responsive to criteria (2) and (3). 39 CFR 3020.32(d)-(g). Because Global Direct Contracts is a competitive product, the Postal

Service must also explain why its Request does not violate 39 USC 3633. 39 CFR 3020.32(c)

The Postal Service states that because the Request seeks removal of Global Direct Contracts from the competitive product list, there is no need to verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power. Request, Attachment C at 2.

The Postal Service also states that upon removal of Global Direct Contracts, the product will cease to exist and therefore will not violate the standards of 39 USC 3633. *Id.* Moreover, the Postal Service observes that Global Direct Contracts is outside the scope of the letter monopoly. *Id.*

The Postal Service indicates that it has no specific views of customers concerning the removal of Global Direct Contracts from the competitive product list. *Id.* at 3. However, it observes that customers are not using this mailing service, which suggests that market interest among customers is “low to non-existent.” *Id.* The Postal Service also indicates that there will be no impact on small businesses as no contracts have been in effect since January 2013. *Id.* With respect to identifying private sector enterprises engaged in the delivery of the product, the Postal Service maintains this requirement is not applicable. *Id.* at 2.

For these reasons, the Public Representative concludes that the Postal Service’s Request to remove Global Direct Contracts from the competitive product list satisfies the applicable statutory and regulatory criteria set forth in 39 USC 3642 and 39 CFR 3020.30 *et seq.*

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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